



## What's Baked within WADA's "Spirit of Sport" Criterion? Unpacking the Framework that Keeps Cannabis on the Prohibited Substance List

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### Abstract

The world is struggling to conceptualize a standard approach to cannabis policy. Some states ban cannabis entirely, some states allow it for medical use, others fully legalize it. At the same time, more and more athletes are coming forward about their experience with cannabis and its benefits. World Anti-Doping Agency (WADA) is the primary international source of power over both drug regulation and athletic federations. Thus, WADA has the unique potential to develop a standardized approach to cannabis that can be applied consistently across all sports and countries. Despite WADA's potential to use the universal language of sports for change, cannabis policy in sports is currently stagnant due to WADA's presence in the conversation. One obstacle to meaningful dialogue between athletic federations regarding cannabis use in sport first lies with WADA's framework. For a substance or method to be added to WADA's prohibited substance list, it must meet at least two of the following three criteria: (1) It has the potential to enhance sports performance, (2) It represents an actual or potential health risk to athletes, or (3) It violates the spirit of sport. Currently, the spirit of sport criterion is invoked as a catch-all. As opposed to the first two criteria, the spirit of sport is inherently subjective. As a result, it can have a significant impact on the way that anti-doping policies related to cannabis use are developed and enforced. This paper suggests that WADA would be better equipped to approach the cannabis problem after (1) Procedural change within WADA's leadership structure to allow consideration of the changing legal and social context of cannabis use and (2) Philosophical change to the principles underlying the Spirit of Sport criterion with the procedural changes in place.

### Keywords

Marijuana; Cannabis policy; Performance enhancing drugs; Sports diplomacy; International law; The spirit of sport; WADA.

### Introduction

Athletes want to smoke weed, and the time has come for an honest dialogue about it. For years there has been a hidden culture of cannabis use among recreational and elite athletes who routinely engage in "stoned workouts" [1]. Bodybuilders and endurance athletes rely on cannabis to stimulate their appetites so they can keep on weight, while other athletes have claimed it helps them recover from tough workouts, reduces their pain and improves their sleep [2]. However, the most common feedback from athletes is that cannabis helps calm their nerves and alleviate anxiety [3]. Around 70% of them reported that cannabis helped them sleep or alleviated pain stemming from tough workouts, and around 60% reported that it calmed them down.

Cannabis use in sport has sparked interest amongst all types of athletes, not just the fanatics, elites, or post-professionals, but everyday people. In a 2019 survey, Angela Bryan, a professor of psychology and neuroscience at the University of Colorado Boulder, recruited about 600 regular cannabis users [4]. Roughly half of the people in the study said that cannabis motivated them to exercise, over 80% of cannabis users said that they regularly used it around the time of their workouts, 70% said that it increased their enjoyment of exercise, and roughly 80% said that it helped them recover. It is clear that athletes can derive significant benefits from cannabis. The question is thus whether athletic federations must prohibit its use.

There is more to the story than the unique qualities of cannabis. Athletes frequently use other "common" or "benign" drugs such as alcohol, nicotine, and caffeine. The World Anti-Doping Agency (WADA) removed caffeine from the prohibited substance list (the list) in 2004 [5]. Since then, competing athletes have consumed caffeine-containing products freely. WADA now includes caffeine in its Monitoring Program; A program designed to monitor and detect patterns of misuse in substances not included in the List, but with the possibility of being harmful in sport [6].

In 2018, WADA removed Cannabidiol (CBD) from the list, recognizing its therapeutic benefits and low potential for abuse [7]. However, Tetrahydrocannabinol (THC), another major component of cannabis, remains prohibited in competition. By allowing CBD use, WADA recognized that cannabis has legitimate therapeutic benefits that can be used by athletes to manage various medical conditions. WADA has thus demonstrated its ability to be a nimble and progressive governing body and should further recognize the similarities between THC and CBD. Like CBD, THC has proven therapeutic benefits for various medical conditions, including chronic pain, anxiety, and sleep disorders [8]. The prohibition of THC sends a mixed message regarding the medical value of cannabis and creates unnecessary barriers for athletes who may benefit from its use. Overall, allowing THC in sport would be consistent with WADA's recognition of the therapeutic benefits of other components of cannabis.

The time has come for an honest dialogue about cannabis in sport. Medical and recreational cannabis regimes are growing around the world and clash with the highly regulated, inter jurisdictional industry of athletics. While cannabis policy presents novel political problems, sports are a time-tested diplomatic tool equipped to solve them [9].

WADA is the primary international source of power over both

drug regulation and athletic federations. Thus, WADA has the unique potential to develop a standardized approach to cannabis that can be applied consistently across all sports and countries. WADA has the resources to conduct scientific research on the effects of cannabis and consult with medical experts, athletes, coaches, and other stakeholders to develop evidence-based policies [10]. If WADA models progressive, evidence-based policies on cannabis use in sport, broader societal and cultural changes related to cannabis use can also be addressed. By developing policies that consider these changes, WADA can legitimize their anti-doping policies.

Despite WADA's potential to use the "universal language" of sports for change, cannabis policy in sports is currently stagnant due to WADA's presence in the conversation. This paper aims to explore the reasoning and implications behind WADA's current policy and suggest procedural and philosophical changes to their framework.

In part II, I review the three criteria for placing a drug on the list and argue that the spirit of sport criterion requires change. In part III, I critique the therapeutic use exemption. In part IV, I suggest the procedural and philosophical changes necessary in order to use the spirit of sport criterion as a tool to legitimize anti-doping policy, and potentially remove cannabis from the list.

## Literature Review

### The framework

WADA has had jurisdiction over the list since 2004. The list is a comprehensive document that serves as the international standard for identifying "substances and methods prohibited in sports" and is binding on all stakeholders (signatories of the WADA code) [11]. The United States Anti-Doping Agency (USADA) considers the List to be "one of the most important parts of harmonization globally across the anti-doping movement".

For a substance or method to be added to the List, it must meet at least two of the following three criteria:

- It has the potential to enhance sports performance,
- It represents an actual or potential health risk to athletes, or
- It violates the spirit of sport

In September 2022, WADA determined that Cannabis would remain on the list despite requests from the global community to reclassify it [12]. While WADA states that a drug must meet at least two of the three criteria to be placed on the list, the explanatory notes only come to an explicit conclusion regarding the spirit of sport criterion. WADA's inability to firmly back their decision is troubling in light of stakeholder demands. As explained below, the current framework gives WADA the procedural power to overlook stakeholders without proper justification.

**Potential to enhance performance:** The summary of WADA's major modifications in the September 2022 decision provided that "objective evidence does not support THC enhancement of physiological performance, while the potential for performance enhancement through neuropsychological effects still cannot be excluded." Thus, WADA concedes that cannabis likely lacks physiological performance enhancing qualities but maintains a flawed perspective on the nature of cannabis's neuropsychological effects.

The cannabis plant contains numerous components, including cannabinoids and other active molecules [13]. The introduction of

these components into the body is mediated by the endocannabinoid system [14]. The human endocannabinoid system exists naturally in the body and is involved in nearly all biological functions (sleep, appetite, mood, fertility, immune system, pain sensation and memory). Experts contend that cannabis does not affect the body in the same way that a performance enhancer does because cannabis is merely the ideal tool to influence the already existing endocannabinoid system within our bodies. "When endocannabinoids are not functioning properly in the body, it is no different than a lack of insulin for diabetics". Thus, rather than the use of a typical performance enhancer, which takes the human body beyond its natural capabilities, an athlete's use of cannabis is akin to a diabetic's use of insulin, "addressing a medical condition, not enhancing performance".

Furthermore, many of the "proven benefits" cited in cannabis performance-enhancement arguments are actually benefits derived from CBD, which was removed from the list in 2018 [15]. This demonstrates yet another inconsistency behind the THC ban, but also suggests that WADA misunderstands the components of cannabis and their role within the endocannabinoid system.

**Some experts pursue a different argument:** Cannabis potentially detracts from athletic performance. David McDuff, a sports psychiatrist at the University of Maryland and member of the International Olympic Committee's Mental Health Workgroup (IOCMHW) opines that "cannabis is more likely to be viewed as performance-detracting rather than performance-enhancing." This is because "some studies suggest that consuming cannabis has negative effects on skills such as motor coordination and mental alertness that are required in many sports." A 2021 study found that cannabis hinders physiological responses necessary for high performance by raising blood pressure and decreasing strength and balance [16]. Other experts suggest that cannabis's negative effects on performance would counteract any benefits, leaving any argument that cannabis can enhance athletic performance without merit.

Expert opinions vary, but most evidence points to cannabis's lack of performance enhancing potential. Many opponents of WADA's current cannabis policy hyper-focus on this lack of performance-enhancing evidence and fail to realize that this criterion need not be proven at all when the other two criteria are satisfied.

**Potential health risk to athletes:** For the next criterion, the 2022 explanatory notes provided that "there is compelling medical evidence that use of THC is a risk for health, mainly neurological, that has a significant impact on the health of young individuals, a cohort which is overrepresented in athletes".

This criterion is the most bullet-proof and frankly warrants little analysis. It is presumptuous to claim cannabis poses no potential health risks to athletes. USADA's website provides: "Negative physical effects of smoking cannabis include dry mouth and throat, an increased resting heart rate, and the expansion of both lung passageways and blood vessels" [17]. On the other hand, while it is difficult to conclude with certainty, much of "the research to date suggests that cannabis is not more harmful than alcohol, a substance for which WADA has much laxer rules" [18].

The loose requirement that a drug merely has "potential" health risks gives WADA a lot of freedom. When it comes to health, "the evidence is pretty clear that there are adverse health risks from the use of cannabis."

**Spirit of sport:** Finally, the explanatory notes provided that "in

consideration of the values encompassed by the spirit of sport and noting in particular that respect for self and other participants includes the safety of fellow-competitors, the use of THC in-competition violates the spirit of sport”.

This is the singular criterion that WADA takes a firm position on. WADA takes a vague stance for the first two criteria, explaining that “WADA plans to continue research in this area in relation with THC’s potential performance enhancing effects (and) its impact on the health of athletes”. In contrast, regarding the spirit of sport criterion, WADA is quite explicit, citing to the ethics expert advisory group, “which continues to consider cannabis use, at this time, to be against the spirit of sport across a range of areas as listed in the code”.

As opposed to the other two self-defining criteria, WADA sets out a detailed description of the spirit of sport as employed in the world anti-doping code (the code) [19]. WADA defines the spirit of sport as follows:

The spirit of sport is the celebration of the human spirit, body and mind. It is the essence of Olympism and is reflected in the values we find in and through sport, including: Health, ethics, fair play and honesty, athletes’ rights as set forth in the code, excellence in performance, character and education, fun and joy, teamwork, dedication and commitment, respect for rules and laws, respect for self and other participants, courage, community and solidarity.

The rule has various textual flaws. First, the definition lists “health” and “excellence in performance” as two of its eleven descriptors, resulting in the paradox that if a drug or method is considered unhealthy or performance enhancing it automatically meets two of the three criteria [20]. In addition, the introductory language characterizes the spirit of sport as “the essence of olympism”. The use of this language appears to suggest that the Olympic movement that shaped athletes and sports as we know it has simultaneously promoted and embodied values of anti-doping. This suggestion warrants a brief historical analysis to encapsulate what Olympic essence truly means.

i. What is the “essence of olympism?” The long history of drug use in sports

The use of drugs to enhance performance in sports has existed since the time of the original Olympic games (from 776 to 393 BC) [21]. Ancient Greek athletes drank wine potions, used hallucinogens, and ate animal hearts or testicles in search of potency. In 100 AD, Roman gladiators used stimulants and hallucinogens to prevent fatigue and injury.

In the 19<sup>th</sup> century, athletes used a mixture of cocoa leaf extract and wine. Widely known as “Vin Mariana”, this drug was used by French cyclists and by a champion lacrosse team. The use of cocaine was popular due to its ability to stave off the sense of fatigue and hunger brought on by prolonged exertion. In 1904, an Olympics marathon runner, Thomas Hicks, used mixture of brandy and strychnine (a stimulant that is fatal in high doses) and nearly died. Mixtures of strychnine, heroin, cocaine, and caffeine were widely used by athletes and each coach or team developed its own unique secret formulae.

The first anti-doping rule in sports was not promulgated until 1928 when The International Association of Athletics Federation (IAAF), the governing body for the sport of track and field, became the first international sporting federation to prohibit doping by athletes. However, this rule did not prove to be very influential. In

the 1950’s, amphetamines, which were widely used by soldiers in the Second World War, crossed over into sports. These drugs minimized the uncomfortable sensations of fatigue during exercise.

Famous cyclists began to die due to their use of excess amounts of amphetamines and brandy. In response, the International Olympic Committee (IOC) established the medical commission to fight against doping in sports in 1967. The IOC was given three guiding principles: “protection of the health of athletes, respect for medical and sport ethics, and equality for all competing athletes”. In 1968, the IOC instituted its first “compulsory doping controls” at the winter Olympic Games in Grenoble, France and again at the summer Olympic Games in Mexico City that same year. When drug testing took place at the games of 1968, it was extremely limited.

The modern age of drug testing did not start until the 1983 Pan Am Games in Caracas, Venezuela, when a team of scientists developed a new method for steroid testing. The Pan Am drug testing caught a lot of athletes by surprise; a dozen American athletes in various events “suddenly withdrew from the competition” and returned to the U.S., and athletes from other countries also left without explanation. Nineteen athletes in total failed drug tests at the 1983 Pan Ams.

In 1999, the world conference on doping in sport produced the Lausanne declaration on doping in sport. This document provided for the creation of an independent international anti-doping agency to be fully operational for the Sydney 2000 Olympics. Pursuant to the terms of the Lausanne declaration, the world anti-doping agency was established on November 10<sup>th</sup>, 1999, “to promote and coordinate the fight against doping in sport internationally”. In 2004, The IOC transferred the management of the list to WADA.

While drug use in sports has existed since the beginning of time, modern regulation has not yet existed for half a century. This is not an argument to allow or endorse doping generally, but rather illuminates that drug use is not the antithesis to the spirit of sport. It has always played a central, arguably critical role. Thus, WADA is categorically incorrect by using “Olympic essence” to bolster their anti-doping framework.

ii. The spirit of sport: The “catch-all” criterion

The spirit of sport criterion is vague and flawed. As demonstrated through WADA’s justification for prohibiting cannabis, the current framework allows WADA to rely on this criterion as a “catch-all” when the science behind the other two criteria is uncertain (or unfavorable). As a result, WADA and its anti-doping policy appear illegitimate. As discussed below, WADA must confront the flaws within this criterion to legitimize their policies moving forward.

## Discussion

### Therapeutic use exemptions

This section provides a background on WADA’s Therapeutic Use Exemption (TUE), explores the tension that exists between the medical and recreational cannabis regimes in this context, reviews the available TUE data and highlights the social consequences that the TUE perpetuates.

**Background:** WADA recognizes that athletes may have legitimate medical needs for a substance on the List. A TUE theoretically ensures that athletes can be treated for medical conditions (even if the treatment involves using a prohibited substance or method) while avoiding the risk of being sanctioned. A TUE must only allow the

athlete to use the medication to ensure they can compete in a proper state of health, rather than to provide a competitive advantage.

TUEs, originally called medical exemptions, have existed since the early 1990s [22]. WADA's jurisdiction over the List starting in 2004 likely sparked the rebrand of the exemption process that occurred in 2005. Despite the "harmonized and robust rules" that WADA attempted to establish, the modern TUE process is considered onerous by many. In the initial TUE application, athletes must provide extensive documentation, including a comprehensive medical history and the results of all relevant examinations, laboratory investigations and imaging studies, copies of original reports, letters, and specialist reviews [23].

**The clash of medical and recreational cannabis policy:** Medical and recreational cannabis regimes are growing worldwide, which has major implications in the context of the TUE. One issue is purely jurisdictional. For example, the legalization of cannabis for both medical and recreational use has begun at the state level in the U.S., but the USADA and U.S. federal law still ban their use [24]. The TUE encapsulates the medical necessity of cannabis, however, often has stricter rules than the medical regimes that exist for everyday people at the state level.

Additionally, there is an ideological tension between recreational and medical regimes. Recreational regimes suggest that cannabis is fine for all because it does not hurt sport, while medical regimes suggest that cannabis is okay, but only for some athletes, since it levels the playing field.

One possible solution is to create a separate set of rules and regulations for the recreational use of cannabis by athletes. Under this approach, WADA could continue to require TUEs for medical cannabis use during competition, while also allowing for recreational use outside of competition. Athletes who choose to use cannabis recreationally would be required to follow strict guidelines to ensure that they do not use the drug in a way that would compromise their athletic performance or violate anti-doping regulations. These guidelines could be enforced through the same monitoring program that is used for drugs like caffeine, allowing athletes to use cannabis for both medical and recreational purposes without fear of violating anti-doping regulations.

On the other hand, there are reasons why no user, recreational or medical, should need to go through a selective process to use cannabis. TUEs exist to even the playing field when an athlete needs performance enhancing drugs. Thus, if WADA re-conceptualized the benefits of cannabis and removed it from the List, then there would be no need for a TUE for cannabis at all. The clash of the medical and recreational regimes dissolves once cannabis is simply removed from the list.

Regardless of which approach is taken, WADA must balance the needs of athletes who may benefit from the therapeutic properties of cannabis with the need to maintain a level playing field in sports. A major obstacle in this balancing act is the current lack of transparency behind TUE data.

**TUE's at the global, domestic and individual levels (Prevalence of TUE's at the global level: WADA data):** Every year, WADA publishes an annual report as part of its "ongoing commitment to accountability and transparency" [25]. Despite the proclaimed commitment to transparency, the report fails to provide much detail

at all as to the current TUE process. The report only provides the total TUEs approved in 2021 and the TUE "activity" per Anti-Doping Organization (ADO).

The report states that "in 2021, a total of 2,345 new approved TUEs were registered in WADA's anti-doping administration and management system, compared to 2,130 in 2020". The most active ADOs were National ADOs, "entering 83% of all TUEs while International Federations (IFs) registered 15%".

The data in the annual report provided no breakdown as to how many TUE applications were denied, which drugs were approved, and which countries were the most active in the TUE process. This troubling gap in data is somewhat supplemented by external studies. One study used IOC and WADA data to identify athletes competing with TUEs at five Olympic Games from 2010-2018 [26]. The study was restricted only to individual sports because "it is unclear how much influence one athlete with a TUE would have on the results in team competitions".

The study provides a by-drug breakdown of TUEs used in these games. TUEs for Beta-2-Agonists (B2As) was the most common of all TUEs (43%), followed by those for glucocorticoids (22%). B2As are used for treatment of asthma. The study explains that "inhaled B2A is commonly used because of the high general prevalence of asthma in elite athletes competing in endurance events". Glucocorticoids are steroid hormones widely used for the treatment of inflammation, autoimmune diseases, and cancer. The study also provides a by-country breakdown. Austria had 3.6% of total TUEs, followed by Denmark with 3.3%, Norway with 3%, Switzerland with 2.6%, Slovenia with 2.5% and New Zealand and the USA with 1.7% each.

Because the study only covered Olympic games from 2010-2018, its findings do not paint a complete picture as to the exact breakdown of WADA's total approved TUEs in 2021, which include more than only Olympic games. However, the study provides great insight into other TUE trends. First, during the five Olympic games in the study, less than 1% of athletes competing in individual events had a TUE. Additionally, athletes from countries with greater resources (using country GDP and team size as proxies) were more likely to be granted TUEs and to win medals. The by-country results of the study ultimately supported the authors' hypothesis that "the country may be an important confounder when examining the relationship between TUEs and medals. Athletes from lower resource countries were less likely to have TUEs compared with athletes from the highest resource countries".

**TUE's on the domestic level-USADA data:** The USADA annual report offers data covering sports beyond just the Olympics and is a helpful tool in observing TUE trends on the domestic level [27]. The USADA report is much more comprehensive than the WADA report. In addition to the total TUE applications submitted, the report provides a by-drug breakdown of the top approved and denied TUE applications.

According to the 2021 report, the USADA received a total of 569 TUE requests, 322 were approved and 32 were denied. The remaining 247 requests were either withdrawn or "processing". In light of how extensive the TUE process can be, perhaps many of these TUEs are sitting in limbo as the athletes exhaust the medical alternatives required before being allowed to use the desired prohibited substance.

According to the by-drug breakdown, the most requested and

approved TUEs were for stimulants and glucocorticoids. In contrast to being the most popular drug at the Olympic level from 2010-2018, Beta-2-Agonists did not even make the top 5 list for USADA's most approved TUEs. Stimulants and Anabolic agents were the top-denied TUE requests. Notably, the report states that there were three denials for cannabis in 2021.

**TUEs on the individual level-Elias theodorou:** Practicing, competing, and living with pain are unavoidable elements of a professional athlete's life. As a result, efforts to ameliorate the negative effects of pain are long-standing, and include the use of prescription pain medications, such as opioids [28]. Under WADA standards, cannabis is only banned in-competition when over 150 nanograms per millimeter of cannabinoids are detected from a sample taken during the in-competition window. Anyone who exceeds this threshold is deemed to be an in-competition user even if they are not in any way impaired. The problem, particularly for regular medical users of cannabis, is that this threshold can be exceeded even when use is discontinued many days prior to the in-competition window. This leaves users with the option of either seeking a TUE or needing to discontinue their medicine well in advance.

Elias Theodorou's story illustrates this reality. Theodorou made four attempts at a TUE from USADA but was denied due to the requirement of exhausting all "first-line medication(s)": Traditional antidepressants and opioids [29]. Without a TUE, Theodorou had to rely on opioid painkillers six weeks before a fight. In an interview, Theodorou commented on "the irony of them telling (him) not to get hooked on opioids while telling (him) to try a lot more opioids before (they could) give (him) cannabis."

Ultimately, Theodorou obtained a TUE for medical cannabis from the British Columbia athletic commission. Theodorou competed without incident and won in the first ever bout with a cannabis TUE in place. Theodorou succeeded in obtaining a similar TUE from the Colorado office of combative sports [30]. This was the first time a US based combat sports commission granted a cannabis TUE. Both Colorado and British Columbia use WADA standards when making TUE determinations. Having a US based commission grant a TUE is a significant step towards a more sensible treatment of cannabis. With an avenue for TUEs in the United States and Canada, medical users have more options at their disposal.

**TUEs-More harm than good:** The current TUE process for cannabis does little embody the framework's commitment to health and fairness. Athletes are forced to exhaust medical alternatives that have far more potential health risks than cannabis. Additionally, by restricting the use of cannabis to TUEs, where athletes must prove an exhaustion of all other medical alternatives, WADA perpetuates a disparity between athletes in more developed and lesser developed countries.

Given these challenges, it is sensible to allow cannabis for medical use without requiring a TUE. This would eliminate the need for patients to go through a complicated application process and ensure that those who need the treatment can access it. This would help reduce the stigma surrounding cannabis use and promote greater acceptance of its medical benefits. Athletes who use cannabis for medical purposes may need to use it consistently to manage their symptoms, which may not be feasible if they must stop using it for weeks or months before a competition to avoid failing a test. Additionally, athletes who are subject to frequent testing may find it

difficult to use cannabis regularly without running the risk of testing positive. Overall, the TUE approach proves to be more of a distractive than effective tactic used to reconcile with the problematic realities of prohibiting cannabis, and its elimination can easily be supplemented by adding cannabis to WADA's current monitoring program. Such a transition, however, would inevitably place WADA in the position to assess, yet again, whether the reclassification of cannabis violates the Spirit of Sport criterion.

### Re-conceptualizing the spirit of sport

Athletes are being penalized for the use of drugs that are legal in some countries and have no proven performance enhancing effects [31]. Other athletes are penalized for trying to play by the rules and are forced to turn to addictive or expensive alternatives rather than their desired medical treatment. On a larger scale, this process drives a wedge between athletic federations and countries with the means to exhaust all medical options and those who simply have no choice but to either go un-medicated or break the rules. It is clear that WADA's current framework is failing athletes. Re-conceptualizing the Spirit of Sport criterion is a method that WADA should use to cure these failures.

The spirit of sport criterion is particularly important to rethink in the context of cannabis because it is most open to interpretation and cultural variation. As a result, it can have a significant impact on the way that anti-doping policies related to cannabis use are developed and enforced. This reconceptualization should involve:

- Procedural change within WADA's leadership structure to allow consideration of the changing legal and social context of cannabis use and
- Philosophical change to the principles underlying the Spirit of Sport criterion with the procedural changes in place.

By approaching the criterion in this way, WADA can develop more nuanced and culturally sensitive anti-doping policies related to cannabis use that are based on sound scientific evidence and are consistent with changing societal norms.

### Procedural change

At the procedural level, WADA faces a huge obstacle of coordinating policy amongst societies where there is no unitary view of the world that each country accepts [32]. Every country has signed off on the code, but it is unclear if they only did so because of its coercive nature. When a state refuses to sign off, they are denied funds, sponsorships, and participation in some of the world's largest events.

International relations scholars point to "discourse ethics" as a potential solution to the disconnect between WADA and its stakeholders. Essentially, WADA needs to avoid an arbitrary coherence and encourage an open discourse on norms and values that can actually be binding based on recognized rights and duties [33].

In the 2012-2014 code review and revision, WADA engaged for the first time in what they claimed to be a comprehensive stakeholder dialogue. WADA president, Craig Reedie, remarked that he "wanted WADA to be both collaborative and impactful" and to "work closely with all ADOs to meet the challenges (they) face and do so through a culture of openness and transparency". However, in the code's final publication, WADA failed to publish how stakeholder contributions

were discussed, accepted, rejected, or modified.

Reedie's suggestion of an open discourse is wise. However, a proper application of discourse ethics requires WADA to walk the walk. WADA needs to make clear where revisions come from and why they are accepted. Additionally, WADA should elsewhere make clear where revisions were not accepted and why. These simple revisions are critical first steps towards achieving an overlapping consensus amongst stakeholders in the code review process.

WADA already has working groups and committees that are responsible for evaluating scientific evidence and providing recommendations on the list and other aspects of anti-doping policy [34]. For example, the prohibited list expert group is responsible for reviewing the scientific and medical evidence on substances and methods that may enhance performance and for making recommendations on their inclusion or exclusion from the list [35]. However, if WADA were to re-conceptualize the criterion to include things beyond the randomized list of thin and thick values, it may require the formation of a new working group or task force with a specific focus on this criterion. Some of the experts that could be involved in this working group may include:

**Sports ethicists:** Experts in sports ethics can provide a deep understanding of the ethical values that underpin the criterion and how it can be operationalized in anti-doping policy [36].

**Social psychologists:** Experts in social psychology can provide insights into how athletes and other stakeholders perceive the spirit of sport and its impact on their behavior [37].

**Legal experts:** Experts in law can provide guidance on how the spirit of sport can be integrated into anti-doping policy in a way that is consistent with legal frameworks and principles.

**Anti-doping scientists:** Experts in anti-doping science can provide a detailed understanding of the performance-enhancing effects of substances and methods that may be prohibited under the criterion.

**Athletes and coaches:** Athletes and coaches can provide insights into how the spirit of sport affects their participation in sport and their views on how it should be operationalized in anti-doping policy.

**Medical experts:** Experts in medicine can provide a detailed understanding of the health risks associated with the use of prohibited substances and methods, as well as the potential benefits of therapeutic use exemptions.

**Anti-doping policymakers:** Experts in anti-doping policy can provide guidance on how the Spirit of Sport can be integrated into the List and other aspects of anti-doping policy in a way that is practical and effective.

### Philosophical change

Aside from the procedural changes that WADA should undertake in redefining the Spirit of Sport, there are also philosophical changes that are needed to embody a consistent, inclusive and progressive anti-doping policy.

As mentioned above, "the essence of Olympism" clause contradicts WADA's central message because of the extensive history of drug use in Olympic sports. The "essence of Olympism" is also problematic characterization because it is a narrow and exclusive term that is specific to the Olympic games and its values. Not all

sports are part of the Olympic movement, and not all athletes or sports organizations share the same values or principles as those espoused by the Olympics. Therefore, by linking the spirit of sport to the "essence of Olympism", WADA's definition marginalizes certain athletes, sports, and cultures.

The remaining list of values within the definition is overly idealistic and out of touch with the realities of modern sport, which is often driven by commercial interests and the pursuit of success at all costs [38]. The values are duplicative of the other two criteria, while also failing to encapsulate any meaningful test or standards that WADA would use to determine whether a drug violates them. A more thoughtful and inclusive definition is needed to address the ethical challenges that arise in contemporary sports, such as doping, corruption, and abuse. At the moment, the entire framework of anti-doping policy rests on this criterion, making a thorough apprehension of its values critical to legitimate policy.

### Conclusion

The universal language of sports is a complex, but effective tool that should be used for an honest dialogue about cannabis policy. WADA is the ideal actor to use this tool to model policy for cannabis use in sport and promote consistency and fairness across all sports and countries. Currently, the spirit of sport criterion is invoked as a last resort criterion that WADA can tack onto a justification when a substance shows any "potential" to violate the other two criteria. Rather than evolving to embody the changing values and consensus surrounding the use of cannabis, WADA further fails athletes with its burdensome and divisive TUE process. These issues illuminate the need for WADA to undertake a transparent and consistent process that stakeholders can trust. Redefining the spirit of sport criterion after careful procedural reform would enable WADA to model progressive, evidence-based policies and to address broader societal and cultural changes related to cannabis use. With the proper procedures and philosophies bolstering the Spirit of Sport criterion, WADA can help ensure that anti-doping policies remain relevant and effective in a changing world.

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